

# COMMUNITY FOREST RIGHTS AT A GLANCE A NEWSLETTER

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## PERSPECTIVE



14

## MAKING SENSE OUT OF A TANGLE OF LAWS

In the forest spaces of India, what do laws really mean to the people these seek to control, restrict or empower?

Adivasis at the gate of the Periyar Tiger Reserve in Kerala

Photo | Ashish Kothari

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## ABOUT US

The Community Forest Rights-Learning and Advocacy Process was initiated in 2011 to facilitate the exchange of information and experiences and to reinforce national level efforts for evidence-based advocacy on Community Forest Rights (CFRs), as provided by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA).

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<http://fra.org.in/>

## TO CONTRIBUTE UPDATES

Write to Meenal Tatpati ([meenaltatpati@gmail.com](mailto:meenaltatpati@gmail.com))

**POSTAL ADDRESS:** Kalpavriksh, Flat No. 5; Shri Dutta Krupa Apts; 908, Deccan Gymkhana, Pune- 411 004.



**COMPILED BY:** Meenal Tatpati with inputs from Sanghamitra Dubey; Shruti Ajit (MoTA status update) and Shiba Desor (Perspective).

**EDITORS:** Meenal Tatpati, Neema Pathak Broome & Tushar Dash | **DESIGN:** Naveed Dadan

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The Forest Rights Act (FRA) campaign announced by the Prime Minister's office in April has hardly made any progress except for few consultations and workshops by some of the states. However, the suggested timeline for implementation of FRA in this campaign has created a great deal of confusion in many states leading to misinterpretation and issuance of orders and statements asking for a rushed FRA implementation, for example, in Chhattisgarh and Jharkhand<sup>1</sup>.

The Ministry of Tribal Affairs (MoTA), in continuation of their efforts towards clarifying issues related to implementational hurdles had to intervene in matters related to rushed implementation. In August, letters were sent to the government of Chhattisgarh (10th August) and Jharkhand (12th August) clarifying that time lines are only indicative in nature and are meant to draw attention on expeditious implementation of FRA. The letters also clarified that timelines should not be misinterpreted to prescribe unrealistic timeframes and to bypass due processes under the law. Doing this, the letters said, may lead to perpetuation of historical injustice towards forest dwellers. In another important intervention MoTA has written a letter to the government of Odisha to revert the decisions of the Odisha State Level Monitoring Committee (SLMC) for granting Community Forest Resource (CFR) Rights titles to Joint Forest Management Committees (JFMCs) and of including members of the police force into the Sub-Divisional Level Committees (SDLC) and District Level Committee (DLC), describing both these decisions as unlawful.

The reports in this Newsletter clearly illustrate that several policy statements of the Central Government may have a negative bearing on the implementation of the FRA. These include, the draft guidelines of the Ministry of Environment,

Forests and Climate Change (MoEFCC), proposing opening up 40 percent the country's forests for management by private sector. It proposes handing over forests to private corporations through agreements signed with the forest department so that these corporations can meet their needs of timber while ensuring 'sustainable forestry' practices over this land. Local communities will be allowed access to only 10-15% of such forest lands! These guidelines do not take into consideration the fact that majority of forests in India can be potentially recognised as CFRs, and are currently being claimed or are likely to be claimed by communities in future. Any handover to the industry will therefore be in direct violation of the FRA. Another process likely to affect FRA implementation is the review of the National Forest Policy that is currently being carried out by the MoEFCC with help from the Institute of Forest Management, Bhopal. The review is being carried out through workshops and regional level meetings. Any revision of the forest policy would be expected to take into account the paradigm shift in forest governance brought in by the CFR provisions of the FRA. However, while these review meetings have seen a large participation of forest department officials and a few a few civil society organizations, there has been no apparent efforts to engage local communities in these workshops nor to discuss how provisions of the FRA can be incorporated into the new policy.

News reports also show that FRA continues to be violated in protected areas especially in tiger reserves. Relocation of villages, without completing processes under FRA, has been reported from Similipal Tiger Reserve in Odisha and Panna Tiger Reserve in Madhya Pradesh. Residents from the relocated Umrahan village of Panna have filed an appeal in the Jabalpur High Court against their relocation citing it as illegal under FRA.

<sup>1</sup> [http://articles.economicstimes.indiatimes.com/2015-08-13/news/65523948\\_1\\_forest-rights-act-gram-sabha-tribal-land-rights](http://articles.economicstimes.indiatimes.com/2015-08-13/news/65523948_1_forest-rights-act-gram-sabha-tribal-land-rights)

Despite the various proactively issued guidelines of MoTA, most states continue to violate the FRA and the lives of several thousand forest dwellers have still remained bound to the historical injustice that the FRA seeks to make right. In this issue, Shiba Desor explores whether progressive acts like the FRA can in the true sense make a difference in the lives of forest dwellers in a perspective piece, "Making sense out of a tangle of laws".

**-Meenal Tatpati, Neema Pathak Broome and Tushar Dash.**

#### IMPLEMENTATION UPDATE

MoTA status report on FRA for the period ending on 31st August 2015, has reported that a total of 1,11,664 community claims and 4,843<sup>2</sup> CFR claims have been filed. For these, 37,303 community titles and 2,148<sup>3</sup> CFR titles have been distributed to the claimants. Odisha has reported filing of 29 new CFR claims between the months of June-August 2015 while Maharashtra has recorded the highest number of community claims filed (90 Claims) and titles (159) distributed in the past three months. However, the status report, with the exception of Odisha and West Bengal, still does not provide disaggregated data on community rights as provided under Sec 3(1), and claims for diversion of forest land for basic amenities as provided under Sec 3(2) of FRA. This indicates that data is still not being provided by the state governments despite MoTAs clear guidelines on how to provide status updates to the states issued in December 2012<sup>4</sup>.

Many states are also not providing separate figures for CFR claims and grants. While states like Karnataka, Maharashtra, Odisha, Rajasthan and Uttar Pradesh saw a rise in the number of community claims filed during the period of May 2015 to August 2015<sup>5</sup>, there are discrepancies with claims filed in Telengana and Madhya Pradesh where the total number of claims filed has reduced from what was reported in the previous status report. The status report until May 2015 has reported a total of 40,669 claims being filed in Madhya Pradesh, while the August 2015 status report shows that figure to be 40,615 claims. Similarly, in Telengana the status report until May 2015 reflected the total number of claims filed as 4,184 and the subsequent status reports of FRA implementation until July and August show the number drop to 3,628 and 3,672 respectively.

Most other states continue to remain unresponsive and do not collate data on the implementation of FRA in the state.

<sup>2</sup> These claims are only from the State of Odisha where the total number of CFR claims have increased from 4,814 (Status Report until May 31st 2015) to 4,843 (Status Report until 31st August 2015).

<sup>3</sup> The titles are from Odisha and West Bengal where Odisha has handed out 2,090 titles and West Bengal, 58 titles respectively. This number remains the same since the last two status reports (Until 31st May 2015 and Until 31st July 2015)

<sup>4</sup> <http://tribal.nic.in/WriteReadData/CMS/Documents/201305281142595930131ReportonNationalMeetingonFRA.pdf>

<sup>5</sup> The number of new claims filed is as follows: Karnataka (73), Maharashtra (90), Odisha (58), Rajasthan (4), Uttar Pradesh (9).

STATE	NO OF COMMUNITY RIGHTS CLAIMS FILED (at the Gram Sabha level)	NO OF COMMUNITY RIGHTS TITLES DISTRIBUTED	EXTENT OF LAND OVER WHICH COMMUNITY RIGHTS RECOGNISED (acres)
Andhra Pradesh	10,959	2,107	NA
Assam	5,913	860	NA
Bihar	-	-	NA
Chhattisgarh	-	-	NA
Gujarat	7,228	3,875	10,81,583
Himachal Pradesh	283	108	NA
Jharkhand	864	494	NA
Karnataka	6,208	144	26,274.79
Kerala	1,395	-	NA
Madhya Pradesh	40,615**	21,285 <sup>6*</sup>	NA
Maharashtra	7,152*	3,436*	8,63,478.72
Odisha	12,560* (7,717-Community and 4,843 -CFR Claims)	5,000 (2,910 – Community and 2,090 CFR Titles)	109391.46 Acres for Community and 815810.70 Acres for CFR
Rajasthan	654*	69*	482.58
Tamil Nadu	-	-	-
Telangana	3,672**	744	503,082
Tripura	277	55	56.79
Uttar Pradesh	1,124*	843*	NA
West Bengal	10,119	431* (373 Community & 58 CFR)	NA

Source: The Ministry of Tribal Affairs:

(<http://tribal.nic.in/WriteReadData/CMS/Documents/201510281110537367495MPRAugust2015.pdf>)

### Letters, Circulars, Guidelines, Memorandums

1. MoTA has issued a directive on the 10th August 2015 addressed to the Tribal Welfare Department and all District Collectors of Chhattisgarh. This was in light of a letter of the Tribal Development Department of Chhattisgarh issued on the 27th of July (http://fra.org.in/ASP\_OrderCirculars\_UploadFile/%7B08de7ce8-4769-4646-8202-af5af508f138%7D\_Gram%20Sabha-FRA.pdf) instructing all DCs to ensure that the gram sabhas organized on the 15th of August 2015 give in writing that the final disposal of individual/community forest rights claims have been carried out in their villages (See [http://fra.org.in/document/CFR-LA-Newsletter\\_June-July-2015%20FINAL.pdf](http://fra.org.in/document/CFR-LA-Newsletter_June-July-2015%20FINAL.pdf) for a detailed report). In the directive, MoTA has clarified that the emphasis on implementation of the FRA in a time bound and pro-active manner should not be interpreted to mean bypassing the provisions and required processes of the FRA and its rules.

The Directive also states that:

- The process of recognition of rights under the FRA requires requisite attention and application of mind and needs to be completed with appropriate quorum and participation, as stated in Rule 4(2) of the FRA amended rules 2012
- Completion of process of recognition and vesting rights, requires completion of a number of steps. These include clearly communicating to the claimants the reasons for rejection of their claims where they have been rejected; giving sufficient time and opportunity to appeal for reexamination of rejected claim; creation of record of rights with clear demarcation of boundaries in the forest and revenue maps; and where no community rights have been filed, reasons for the same by the DLC. (See: <http://tribal.nic.in/WriteReadData/CMS/Documents/201508121054481498449FRA.pdf>)

A similar directive has been issued on the 12th of August 2015 by MoTA to the Chief Secretary of Jharkhand

(See: <http://tribal.nic.in/WriteReadData/userfiles/file/jharkhan.pdf>).

<sup>6</sup>Ready for Distribution however is 20,747

\* Indicates increase in claims since the period ending on 31st May 2015.

\*\* Indicates decrease in claims since the period ending on 31st May 2015.

2. MoTA has sent a letter on 20th August 2015 to the Chief Secretary of Odisha. The letter asks the Government of Odisha to withdraw controversial decisions taken by the SLMC on the 21st of July 2015 (See: [http://fra.org.in/document/CFR-LA-Newsletter\\_June-July-2015%20FINAL.pdf](http://fra.org.in/document/CFR-LA-Newsletter_June-July-2015%20FINAL.pdf), page 9). The SLMC decisions were related to granting CFR rights to the Van Suraksha Samitis (VSS) formed under the Joint Forest Management (JFM) programme; and to include Superintendent of Police and Sub Divisional Police Officers as members of District Level Committee and Sub Divisional Level Committee respectively.

The letter states that:

- Community forest resource (CFR) rights under the FRA are conferred to a gram sabha under Rule 8(i) of the FRA Amendment Rules, 2012 and not to a VSS committee. Further, the gram sabha is entitled to constitute a committee to protect wildlife, forest and bio-diversity under Rule 4(1)(e). The FRA also provides for the DLC to record the reasons as to why no CFR claims have been claimed if a particular gram sabha has not claimed CFR rights.
- The FRA, 2006 and the Amendment Rules, 2012 clearly lay out the procedure to constitute the SDLC and DLC and their composition. Thus, there is no provision or scope under the Act or Rules to co-opt any additional member in these committees. Further, these committees perform the key function of determination and decision-making on forest rights claims forwarded by the gram sabhas and therefore, co-option of any members other than those specified in the Act and Rules could make the entire process of determination of rights vulnerable.  
(See:[http://fra.org.in/ASP\\_OrderCirculars\\_UploadFile/%7B805f9005-daf4-44b1-adcf-86df7438e603%7D\\_Proceedings%20on%208th%20SLMC%20Meeting\\_Odis ha.pdf](http://fra.org.in/ASP_OrderCirculars_UploadFile/%7B805f9005-daf4-44b1-adcf-86df7438e603%7D_Proceedings%20on%208th%20SLMC%20Meeting_Odis ha.pdf))

3. In an Office Memorandum dated 16th April 2015, MoTA has reiterated its stand that the Maharashtra Village Forest Rules (MVFR), 2014 are in direct conflict with the FRA as well as the Panchayats (Extension to Scheduled Areas) Act, 1996.

This reiteration comes after Maharashtra Government sought legal opinion of the Additional Solicitor General and State Attorney General on the MVFR subsequent to MoTA's previous letter asking for these rules to be kept in abeyance.

(See:<http://www.dnaindia.com/india/report-ministry-of-tribal-affairs-reiterates-its-stand-on-maharashtra-forest-rules-2129640>)

MoTA has reiterated that that the implementation of the VFRs will create conflict with the FRA. It has pointed out following reasons outlining VFRs as repugnant to the FRA and PESA which are central legislations:

- VFRs mandate that the forest rights once vested can be withdrawn by the state government under certain circumstances after issuing notices to the gram sabha. However, the forest rights vested under FRA cannot be taken away by the State executive nor surrendered by forest dwellers.
- VFRs give only right to access to minor forest produce to forest dwellers, whereas the FRA has vested in them right to ownership of MFP. FRA also states that the rights under the Act are recognized notwithstanding anything contained in any other law for the time being in force. PESA also vests the ownership of MFP with the gram sabha under Sec 4(m)(ii).
- VFRs replace the hamlet level gram sabhas with panchayat level gram sabhas under the State Panchayats Act. This is a violation of the FRA.
- VFRs provide that the gram sabhas shall divest itself of its statutory powers and responsibilities towards management, protection, conservation and preservation of its community forests (under Sec 5 and Rule 4(1)(e) of the FRA and the Maharashtra Village Panchayats Extension to Scheduled Areas (PESA) Rules, 2014) and surrender them to pre-existing JFMCs.

However, JFMCs do not have any statutory status unlike the Forest Conservation and Management Committee (or the CFR Management Committee under Rule 4(1) (e)) under the FRA; or the Resource Planning and Management Committee under Maharashtra PESA rules.

Through this letter, MoTA has reemphasized that VFRs seek to subordinate the decision-making powers of gram sabhas, and are generally, specifically and inherently in violation of FRA. MoTA has also pointed towards the potential future conflicts between JFMCs and Forest Conservation and Management Committees under the FRA.

(Letter available at:

[http://fra.org.in/ASP\\_OrderCiculars\\_UploadFile/%7B39ba60f3-eebd-4e62-b237-ae4a9d67d83b%7D\\_MoTA%20letter%20to%20Mahashtra%20Govt%20regardin%20Village%20Forest%20Rules.pdf](http://fra.org.in/ASP_OrderCiculars_UploadFile/%7B39ba60f3-eebd-4e62-b237-ae4a9d67d83b%7D_MoTA%20letter%20to%20Mahashtra%20Govt%20regardin%20Village%20Forest%20Rules.pdf))

4. In a letter dated 22nd September 2015 to all Chief Secretaries of all state governments, MoTA has reiterated the need to recognize CFR rights all across the country in campaign mode. MoTA has observed that while some progress has been made with regards to recognition of individual rights, recognition of CFRs has been very low. CFRs are of particular importance since they play a significant role in securing the lives and livelihoods of nearly 200 million forest dependent people.

In the letter MoTA has directed that:

- Assessment of potential CFR areas needs to be taken up at the earliest, and georeferencing can be used for the purpose.
- The methodology of assessment of CFRs can be the same as used in the Forest Survey of India report of 2009, and Census of India report 2001 and 2011. However, since these reports include only those villages having forest land within their revenue boundaries, they are rather conservative estimates while the potential CFR areas could be much more.
- All states should estimate potential CFR areas within the next month and DLCs should be directed to take steps to ensure that CFR rights are recognised in all villages with forest dwellers.

(See:

<http://tribal.nic.in/WriteReadData/CMS/Documents/201510270348092991795FRA.pdf>)

1. The Ministry of Environment, Forest and Climate Change (MoEFCC) has issued draft guidelines in August 2015 to open up about 40% of the 69 million ha of forest cover in the country, classified as 'degraded forests' to private industries, through joint agreements between the private corporations, states and forest department. This has been done to involve private sector in improving and restoring private landscapes and meet the vital requirement of various forest products for industries. The draft guidelines aim to provide 85-90% of the leased forests to be used by Industry for plantations while restricting local use by communities to 10-15% of the leased area from where they would be allowed to collect MFP.

(See: <http://indianexpress.com/article/india/indiaothers/governmentmayopendegradedforeststoprivatecompanies/>;

<http://www.hindustantimes.com/indianews/govttoallowpvtsectortomanage40offorests/article11389622.aspx>)

Several civil society groups, people's movements and representatives from forest dwelling communities have criticized this move by the government on the grounds that these guidelines are against the letter and spirit of the FRA as well as PESA. (See open letter to the Prime Minister against the draft policy: <http://kalpavriksh.org/images/FeaturedArticles/OpenletterPMafforestationofdforestsSept262015.pdf>)

2. On 16th September 2015, the Ministry of Mines has directed Chief Secretaries of all states to set up a District Mineral Foundation (DMF)<sup>7</sup> for districts affected by mining under Sec 9B(1) of the Mines and Minerals (Development and Regulation) Act, 1957, amended in March 2015 (<http://www.indiacode.nic.in/acts-in-pdf/2015/201510.pdf>). The Ministry of Mines has announced the Pradhan Mantri Khanij Kshetra Kalyan Yojna (Prime Minister's Mineral Area Welfare Scheme) to be implemented by these DMFs in order to implement various developmental and welfare projects and to minimize the adverse impacts of mining on the people and environments in mining affected regions.

(<http://mines.nic.in/writereaddata/UploadFile/Order%20-%20PMKKKY.pdf>)

<sup>7</sup>Every mining lease holder or a prospecting license-cum-mining lease holder has to give - in addition to the royalty - 10% of the royalty for licences and leases granted on or after 12th January 2015, and 30% of royalty for licences and leases granted before 12th January 2015 to the District Mineral Foundation. The royalty is decided according to the Second Schedule of the Mines and Minerals (Development and Regulation) Act, 1957. (See: <http://mines.nic.in/writereaddata/UploadFile/DMF%20rates%20notification.pdf>)

Both the Act and the scheme have highlighted the implementation of PESA and FRA in Scheduled Areas for utilization of funds under the policy. However, as the responsibility of creating DMFs and notifying rules for their operationalisation has been entrusted with the state governments, it remains to be seen how these bodies will work and how rights of forest dwellers under these acts will be upheld.

3. Workshops and consultations are being held in different parts of India to review and revise the National Forest Policy of 1988. The Centre for Policy Change under the Indian Institute of Forest Management, Bhopal, has been selected by the Ministry of Environment, Forest and Climate Change under the 'Strengthening the Natural Resource Management Project of the United Nations Development Programme (UNDP) for the review. (<http://www.freepressjournal.in/needtoreviewforestpolicyinlightofnewdevelopments/>)

Two national workshops and six regional workshops have been planned to consult with stakeholders to review the policy. Through initial workshops, a methodology for review and revision of the forest policy has been created, and 6 bio-geographic regions have been identified where the regional workshops will take place. The first regional workshop for the coastal states and islands was held in Telangana on 3rd and 4th September.

(The reports of these consultations are available at <http://iifm.ac.in/node/642>). An online questionnaire has been designed to obtain feedback and opinions from a larger audience, and comments are being sought. (The questionnaire is available at: (<http://goo.gl/forms/v9jXGS3lJH> and comments can be sent at [policy@iifm.ac.in](mailto:policy@iifm.ac.in)). From the list of participants it appears that while a number of retired forest officials, researchers, industry representatives and some Non Governmental Organizations have participated in these consultations, there has been an absolute absence of local community representatives. No separate consultations have been organized to seek inputs from concerned local communities.

# NEWS, VIEWS & REVIEWS FROM VARIOUS STATES

## ANDHRA PRADESH

1. In the SLMC meeting held on 3rd of August 2015, the Chief Secretary of Andhra Pradesh opined that a massive plan for plantation of coffee, rubber, horticulture and regenerating plants be undertaken under MGNREGA on individual lands granted under FRA.

He also instructed that a data base recording all rights recognised under FRA, including community rights and horticultural projects undertaken on such lands be made in the records.

(See: [http://www.telugupeople.com/news/article\\_00098727\\_AP\\_CS\\_reviews\\_implementation\\_of\\_Forest\\_Land\\_Act.asp](http://www.telugupeople.com/news/article_00098727_AP_CS_reviews_implementation_of_Forest_Land_Act.asp))

2. On the 25th of August 2015, the Central Information Commission has asked the Forest Conservation division of the Ministry of Environment, Forest and Climate Change to provide information to an appellant who had asked for the detailed compliance report of FRA including all documentary evidences related to the gram sabha resolutions (as per the August 2009 circular issued by the MoEFCC) for the villages to be submerged under the Indira Sagar Polavaram Project. The CIC was hearing a second RTI appeal filed by the appellant in this case. The CIC also directed the state of Andhra Pradesh to provide information and copies of documents on the action taken on various representations from people affected by the project within a month. (See: [http://www.newindianexpress.com/states/andhra\\_pradesh/CIC-Directive-to-Centre-on-Polavaram-Tribal-RightsProtection/2015/10/01/article3056133.ece](http://www.newindianexpress.com/states/andhra_pradesh/CIC-Directive-to-Centre-on-Polavaram-Tribal-RightsProtection/2015/10/01/article3056133.ece). For more information, contact Suresh Kumar at [deepalasuresh@gmail.com](mailto:deepalasuresh@gmail.com)).

## CHHATTISGARH

1. The Tribal Welfare Department has issued a letter of clarification on the 11th August 2015, that there is no deadline for filing claims under the FRA. (See: [http://fra.org.in/ASP\\_OrderCirculars\\_UploadFile/%7B14056abe-a28a-4331-8e365dcb27e77686%7D\\_FRA%20Implementation%20in%20Chhatisgarh.pdf](http://fra.org.in/ASP_OrderCirculars_UploadFile/%7B14056abe-a28a-4331-8e365dcb27e77686%7D_FRA%20Implementation%20in%20Chhatisgarh.pdf)).

This is with reference to its letter dated 27th July 2015, asking District Collectors to pass resolutions during 15th August gram sabhas about having completed all processes of claiming and recognition of rights under FRA. (For more details on this, see: [http://fra.org.in/document/CFR-LA-Newsletter\\_June-July2015%20FINAL.pdf](http://fra.org.in/document/CFR-LA-Newsletter_June-July2015%20FINAL.pdf))

2. The Tribal Development Department has issued a letter on the 13th of August 2015 withdrawing its above mentioned letter of 27th July, 2015. This was in response to the letter issued by MoTA on the 10th of August 2015. (Available at: [http://fra.org.in/ASP\\_OrderCirculars\\_UploadFile/%7B20579891-b711-4804a32baa20a03480b3%7D\\_Chhatishgarh%20circular\\_15th%20Aug%2015.pdf](http://fra.org.in/ASP_OrderCirculars_UploadFile/%7B20579891-b711-4804a32baa20a03480b3%7D_Chhatishgarh%20circular_15th%20Aug%2015.pdf))

## GOA

The State Level Monitoring Committee (SLMC) held a meeting on the 10th of September to review the implementation of the FRA in the state. During the meeting, it was reported that out of 10,000 claims received, 365 were community forest rights claims, out of which only two claims from Dharbandora taluka have been distributed to the claimants.

The SLMC decided that 3500 claims from Canacona taluka will be disposed off initially.

The SLMC also decided that the forest department would collate data and records, including satellite images of forest land under occupation by tribals in Goa by 31st December 2015. This will be to facilitate the filing of claims and recognition of rights. The same deadline would also apply for talathis (revenue officials) for mapping and demarcation of forest land within each village.

(See: <http://www.goacom.com/test-1/28785-chief-secy-sets-dec-31-deadline-for-forest-land-data>)

## GUJARAT

The state government has decided to convert 79 forest villages in Surat, 12 in Tapi, 52 in Narmada, 20 in Bharuch, 9 in Dahod and 24 in Panchmahal districts into revenue villages. Titles over the land under their occupation will be given to the villagers in the name of both the spouses and will be registered as such in the revenue records.

(See: <http://economictimes.indiatimes.com/news/politicsandnation/196forestvillagesingujarattobecomerevenuevillages/articleshow/48407247.cms?prtpage=1>)

## JHARKHAND

The Chief Secretary has asked Deputy Commissioners of all districts in the state to ensure the distribution of all IFR titles in the state by the 30th of September 2015. To do this, they have been directed to prepare a roster for conducting gram sabhas in the presence of forest officials so that old and new applications can be deliberated upon. He has also asked that the officials come up with a similar model for the distribution of community titles.

(See: <http://www.dailypioneer.com/stateeditions/ranchi/cssetssept30deadlinefordistributionofforestpattas.html>)

## KERALA

1. The Adivasi Gotra Maha Sabha of Vazhachal Forests have passed a resolution asking the government of Kerala to ensure that CFR rights given to gram sabhas are implemented effectively. Nine Kadar tribal settlements have received joint CFR title over 400 sq km of their customary forests here. They have however, alleged that certain organizations were sabotaging the implementation of the Act in the area by appointing the Van Savrakshan Samiti (VSS or Joint Forest Management Committee) as the CFR management committee.

(The article appeared in The Indian Express on the 22nd of September 2015. Scanned copy of the news was circulated on CFR-LA on the 30th of September 2015. Copy of the same is available with the editors).

2. On 23rd August, the 9 Kadar villages of Vazhachal resolved against the Athirapilly Hydro electric project on the Chalakudy River that is expected to submerge 104 hectares of their CFR forests. The project has been revived due to the recommendations of an expert appraisal committee of the MoEFCC, taking into account the State Electricity Board's contention that tribal families would not be displaced by the project.

(See: <http://scroll.in/article/750235/a-kerala-tribe-invokes-its-newly-acquired-forest-rights-to-fight-off-a-dam>).

## MADHYA PRADESH

1. The Gram Sabha of Amelia village in the Singrauli district has passed a resolution asking for the completion of processes of recognition of the CFR rights and individual forest rights in their village. The gram sabha has reiterated its rights over land, forests, minerals, fish and other minor forest produce and has said that any acquisition, transfer, possession of the village's public, private, pasture lands and any other resources cannot be done without the gram sabha's prior informed consent.

(Shared by Akshay Gupta ([akgupta@greenpeace.org](mailto:akgupta@greenpeace.org)) on behalf of the Mahan Sangharsh Samiti).



File picture of a gram sabha underway in Amelia village, Mahan. Photo: Greenpeace India

2. On the 27th of August, a writ petition has been filed in the Jabalpur High Court against attempts of the forest department to evict Umrahan village from Panna Tiger Reserve, stating that their rights under FRA have been violated by the forest department. The writ petition has been filed by three residents of the village along with a local activist, against the PCCF, District Collector and Field Director of the TR.

The forest department has been trying to relocate the village for the past three years. All livelihood means of the villagers have been disrupted, they have been prevented from carrying out any farming operations, their electricity supply has been cut and villagers allege that elephants have been let loose in the village to terrorize people into leaving the village.

On 26th June, a public hearing was conducted in the village by the District Collector, in the presence of a large police deployment and forest department officials. The collector asked if people wanted to relocate or not by the show of hands, and in the absence of many villagers, majority of people present for the public hearing supported the relocation. On 30th June, 7 lakh, 60 thousand rupees were transferred to the accounts of the villagers and since then the forest department has begun pressurising the villagers to leave the village. 51 families have already left the village, however the remaining 57 families are demanding proper land for land rehabilitation. The villagers had filed 36 IFR claims, community forest rights claims and are in the process of completing their CFR claim. 13 IFR titles have been distributed already in the village and hand pumps have been given under *nistar* rights.

Meanwhile, the HC has accepted the petition, and a hearing has been scheduled for the 28th of September.

(See: [http://www.sangharshsamvad.org/2015/09/blogpost\\_22.html?m=1](http://www.sangharshsamvad.org/2015/09/blogpost_22.html?m=1)).

## MAHARASHTRA

A District Level Convergence Committee has been set up in Gadchiroli in accordance with the Maharashtra Tribal Development Department's decision dated 12th June 2015

(See: <https://www.maharashtra.gov.in/Site/Upload/Government%20Resolution%20English/201506151722563724.pdf>).

These committees, to be formed for 5 districts including Gadchiroli, would look into the implementation of the CFR management plans. This would be done through convergence of all the schemes of various governmental line agencies. The Gadchiroli district committee will bring about the facilitation of CFR management processes in 12 villages from Armori and Gadchiroli talukas which have prepared their management plans under this project. (News appeared in *Punya Nagri Daily* in the 1st September 2015 edition. Could not be accessed online. News item is available with editors).

## ODISHA

1. Rs. 370.33 crore have been sanctioned to support the capacity development of Joint Forest Management Committees in Odisha through (OFSDS) and CAMPA. This was disclosed in a reply received from the Public Information Officer (PIO) of Odisha Forestry Sector Development Society (OFSDS) on an inquiry made under the RTI to get information about the details of the plan of action of Aam Jungles Yojana (for details regarding the scheme see <http://fra.org.in/document/CITIZENS%20REPORT%202015%20COMMUNITY%20FOREST%20RIGHTS%20UNDER%20THE%20FOREST%20RIGHTS%20ACT.pdf>, point 2.4(ii) page 34),

(For more information, contact Pradip Pradhan, [pradippradhan63@gmail.com](mailto:pradippradhan63@gmail.com), 9937843482).

2. The Director, Scheduled Tribes and Scheduled Castes Development Department (ST & SCDD), through a letter dated 19th August 2015 ((See: [http://fra.org.in/ASP\\_OrderCirculars\\_UploadFile/%7B805f9005-daf4-44b1-adcf-86df7438e603%7D\\_Proceedings%20on%208th%20SLMC%20Meeting\\_Odisha.pdf](http://fra.org.in/ASP_OrderCirculars_UploadFile/%7B805f9005-daf4-44b1-adcf-86df7438e603%7D_Proceedings%20on%208th%20SLMC%20Meeting_Odisha.pdf)), has withdrawn the decisions regarding CFR rights to be given to JFMCs, and SPs and SDPOs to be co-opted as members of the DLC and SDLC respectively This action was taken following MoTA's directive issued against these decisions on the 19th of August 2015 (For details see point 2, Letters Memorandums, Guidelines and Circulars section).

3. In its meeting held on the 10th of June 2015 the SDLC of Nilagiri sub-division of Balasore district rejected all 82 CFR claims it had received. This was reportedly done on instructions of the Assistant Conservator of Forests (ACF), who contended that the claims are non-eligible for recognition as the claimants 'reside outside the area claimed as CFR. The Naranpur gram sabha, whose CFR claim was among the ones rejected has petitioned to the Chief Secretary and the SLMC against the decision. The Chief Secretary, the Director of SC& STDD, the District Welfare Officer and the District Collector are currently looking into the matter. (For details, contact Laxmidhar Balia of Odisha Jungle Manch at odishajunglemancha@yahoo.in).

4. The Jamin Jungle Mukti Andolan (JJMA) organised a protest rally on the 14th of August 2015, demanding the implementation of FRA in Nuapada district. About 2000 forest dwellers from five blocks of the district (Nuapada, Koman, Boden, Khariar, Snapali) participated in the rally. The JJMA claimed that the SLMC has been provided false reports of status of claims since the SMLC minutes of March 2015 had recorded that 609 CFR claims had been filed in the gram sabhas of the District, whereas the May 2015 minutes recorded only 35 CFR claims filed in the Gram Sabha. The protestors also said that till date only 18 CFR titles had been distributed. Another issue brought up by the protesters was that community forest land recorded as 'Gramya Jungle Jogya' in the record of rights of villages, was exempted from purview of FRA by the SC&STDD via a letter dated 31st December 2011. The protestors submitted a memorandum of demands to the department asking for the immediate recognition of all CFR claims submitted and recognition of forest rights over Gramya Jungle Jogya. (See:<http://orissadiary.com/printStory.asp?id=60973>)

5. On the 11th of September 2015, the forest department has relocated 35 families of Jamunagarh village located in the core of the Similipal Tiger Reserve (STR). These families were shifted to Nabra rehabilitation colony

outside the TR, under the Udala police limits of Mayurbhanj district.. Each relocated family have been given 10 decimals of land for constructing a permanent shelter. According to the relocation plan formulated in 2008, the last remaining villages Kabatghai and Bakua, spread over 2750 sq km in the core are also to be relocated. The ongoing relocation is part of the plan to free the core of the reserve from human presence.

(See: <http://www.thestatesman.com/news/odisha/forest-dept-to-relocate-villages-to-vacate-str-core-area/95314.html>)

Jamunanagar is the same village where in September 2014, a palli sabha was held in which CFR title was handed over to the villagers by the Forest Department. The District Forest Officer had also informed the village about the department's plan to relocate the village in the meeting (See: <http://www.survivalinternational.org/news/10488>). Kabatghai and Bakua, have also filed CFR claims but are yet to receive titles (See: <http://www.downtoearth.org.in/content/remaining-tribals-simlipal-tiger-reserve-be-displaced>). Amid continuing evictions from the core of the Tiger Reserve, 42 villages within the STR have received CFR titles recently (See: [http://fra.org.in/document/CFR-LA-Newsletter\\_April-May-15-Final%20\(1\).pdf](http://fra.org.in/document/CFR-LA-Newsletter_April-May-15-Final%20(1).pdf), page 12). It is not clear at this stage what would these titles mean for the villagers within the TR after their relocation, and what would be their significance in the area where they have been relocated to.

## TELANGANA

Under the Haritha Haraam programme, the state government has decided to carry out plantations over 3.41 lakh hectares of land recognised as individual and community land under FRA, to be carried out in collaboration with a horticultural university. This is aimed at experimenting with different types of horticultural, silvicultural and agricultural species, improving the economic status of the individuals and communities, and to maximize the productivity of these lands.

(See:[http://www.business-standard.com/article/news-ians/telangana-to-embark-on-reforestation-to-improve-green-cover-115090101445\\_1.html](http://www.business-standard.com/article/news-ians/telangana-to-embark-on-reforestation-to-improve-green-cover-115090101445_1.html))

It is pertinent to note that Haritha Haraam has since its inception been in the eye of a storm, because several PVTG groups spread across Khammam district have been stopped from carrying out traditional podu farming on lands recognised or eligible to be recognised as IFRs under the FRA (See: [http://fra.org.in/document/CFR-LA-Newsletter\\_June-July-2015%20FINAL.pdf](http://fra.org.in/document/CFR-LA-Newsletter_June-July-2015%20FINAL.pdf), page 13).

1. A state level consultation on 'Convergence and Forest Rights Act' was organized on 1st September by Vasundhara at CYSD (Centre for Youth and Social Development), Bhubaneswar. In the meeting, the status of implementation of various convergence programmes after recognition of rights, ground level experiences, learning initiatives, issues and challenges related to convergence programmes under FRA in the state were discussed and a detailed report of the same was shared with the SC and ST Development department with recommendations and suggestions that came from the community members, Civil Society Organisations and others present in the consultation. A detailed report of the consultation is available at: [http://fra.org.in/document/Convergence%20and%20FRA-Report%20on%20State%20level%20Consultation\\_%205th%20October.pdf?id=61450](http://fra.org.in/document/Convergence%20and%20FRA-Report%20on%20State%20level%20Consultation_%205th%20October.pdf?id=61450).

(For more information, write to [sanghamitra@vasundharaorissa.org](mailto:sanghamitra@vasundharaorissa.org)).

2. A meeting was organised on the 19th and 20th of September in Bilaspur, Himachal Pradesh on FRA and land rights by the Himalaya Niti Abhiyan. It was attended by 130 community and civil society members from 9 districts of Himachal Pradesh. Members of Campaign for Survival and Dignity, Insaaf and Environics Trust also participated. It was decided in the meeting that the HNA would carry out active awareness drives for the implementation of the FRA all across the state and help in facilitating CFR rights. It would also undertake training programmes for all field level officials involved in the implementation of the Act including FRCs, Panchayat members and regional departments.

(For more information write to: Guman Singh, Convenor of Himalaya Niti Abhiyan, [gumanhna@gmail.com](mailto:gumanhna@gmail.com)).

3. A National Consultation on 'Women and the Forest Rights Act' took place at Bhubaneswar, Odisha on 25th and 26th of September, 2015. It was attended by representatives from civil society organisations, community members, activists working with women's groups, and organisations working on FRA in

the states of Odisha, Andhra Pradesh, Chhattisgarh, Maharashtra, Gujarat and Rajasthan. Lack of awareness leading to poor representation of women in gram sabhas and FRCs, insensitivity of front-line government officials, mostly male, involved in the facilitation of claims and verification were some of the issues that came up during the meeting. (For more details write to: [sonali@vasundharaorissa.org](mailto:sonali@vasundharaorissa.org)).

4. Vasundhara has initiated publication of a bi-monthly newsletter titled 'Habitat Rights' under the FRA. The newsletter covers ongoing initiatives on learnings, key issues and challenges emerging out of claiming and recognition processes of habitat rights for Particularly Vulnerable Tribal Groups across India. The first issue of the news-letter introduced the key provisions of a guideline for claiming and recognition of habitat rights which emerged out of a study carried out under the aegis of MoTA. It also highlighted the experiences from the habitat rights recognition process initiated by Kutia Kondha PVTG in Kandhamal, Odisha. (The newsletter is available at: [http://fra.org.in/document/Habitat%20Rights\\_\\_1st%20Newsletter\\_Subrat%20Kumar%20Nayak\\_Vasundhara.pdf](http://fra.org.in/document/Habitat%20Rights__1st%20Newsletter_Subrat%20Kumar%20Nayak_Vasundhara.pdf). For more details, write to [subrat@vasundharaorissa.org](mailto:subrat@vasundharaorissa.org))

**In the forest spaces of India, what do laws really mean to the people these seek to control, restrict or empower?**

**Shiba Desor** ([desor.shiba@gmail.com](mailto:desor.shiba@gmail.com))

*"Why should I sign a book to go inside my forest, when I myself have to bear the risk of facing my deities and demons there?"*

(Question posed by a member of the tribal soliga community residing in Biligiri Rangaswamy Temple Wildlife Sanctuary in a meeting in Chamarajanagar in 2011)

Forests in India are governed by a multitude of laws. There are laws that govern what the forest department can do, laws that govern the setting up of dams, mines, or factories, and laws that govern what forest dwellers can and cannot do.

There are at least 5 national laws (apart from state laws and regional laws) that influence what becomes legal and what illegal, what is encouraged and what is an offence within the forest space<sup>8</sup>. These laws were enacted at different points of time, under different set of conditions and with different priorities. One law makes large tracts of forests the property of the State (Indian Forest Act, 1927), another reserves spaces for wildlife restricting human activities (Wildlife (Protection) Act, 1972), while others still lay down the procedure for using forest land for 'developmental' activities (Forest Conservation Act, 1980), controlling access to and benefit sharing from biological resources (Biological Diversity Act, 2002), and providing a process for recognising the rights of forest dependent communities (Forest Rights Act 2006).

Trying to come to a comprehensive understanding of the letter and the spirit, the empowering space, the gaps and the loopholes for these Acts is a tedious yet fascinating task. Ironically, among the ones analysing these laws, we come across a lot more NGOs, journalists, ministers, researchers, advocates, and official departments, rather than the people living and depending in the forests

<sup>8</sup> See policy brief by Kalpavriksh (2015) on 'Forest governance at the interface of laws' <http://kalpavriksh.org/images/Documentation/Advocacy/ForestGovernanceatInterfaceLaws.pdf>

for their survival. For forest dependent peoples, the first encounter with legalities often comes when they are reprimanded for hunting, chopping wood, cutting grass, or sometimes simply living in and cultivating their land! Or it may happen when guards in uniform and fences on the ground appear around commons<sup>9</sup>. On many occasions this may even happen when forest officials, never seen before in the village, turn up to inform them that their village is being moved 'out of the forest' and if they do not act fast they will miss out on the 'compensation package'. Or when people from outside, come and try to tell them about sections and provisions, procedures and bits of papers which are supposed to give them a new lease to life!

For forest dependent peoples, forests are not a contested space where different laws operate. Forests are a part of their home. In many cases, these are the spaces that their families have walked and lived on for generations. Barring a few exceptions, the lives of people living on forest land are not lived in a constant consciousness of law books, rights, offences and legal provisions. The lives are more often grounded within a culture struggling to survive amid a rapidly modernizing and changing surrounding.

Within this context, attempting to understand even 'empowering' laws such as the Forest Rights Act can create a weariness in the forest-dependent communities because of its committees, paper-work, ambiguities in interpretation and artificial deadlines. A skepticism and an alienation can creep in with regards to the potential of a law which has some seemingly absurd processes. For instance, it demands,

- written and signed declarations, where majority of persons in the village may be unlettered;
- village-level resolutions where no villages may even exist, and the forest dwelling groups may be nomadic, with fluid boundaries;

- sending letters of invitation for verification of boundaries to officials where no benign communication may have happened between the two groups for decades;
- setting out boundaries in a more rigid manner than they would have existed in the minds and cultures of people who have lived according to oral codes, and have had different ways of resolving issues of access and claims.

Yet, despite these challenges, scattered in the Indian landscape, we can see some earnest attempts at claiming and at times achieving, recognition of forest rights. And the point goes beyond getting mere numbers for claims and titles. There are instances of FRA and CFR being used to challenge take-over of forest commons by large companies, to question systems of manipulation of forests for timber, and to figure out ways of governing the use and sale of non-timber forest produce for livelihood. Community forest rights offer a window of possibilities for life within the forest to be less clouded with fear of sudden alienation and to retain a sense of peace and dignity.

Even more importantly, in the context of a world rapidly moving towards industrialization, individualisation and over-consumption, it offers possibilities for forest dependent communities to articulate a vision for life and well-being rooted in community-feeling, trust, culture and a one-ness with nature. It is this larger possibility of a living vision, which could be talked about, in the villages, and under the trees, much more often, by all of us. It is this potential which must not be lost sight of, even while we are caught within the nuances in sections and subsections, the latest circulars and official actions, or grappling with procedures and paper-work for claims, titles, and boundary maps.

<sup>9</sup>In many villages near Reserved Forests, people use the word 'forest' to refer to a forest guard while in many Tiger Reserves the word 'tiger' or Tiger wallah is used for guards under Project Tiger.

# TRACKING THE FOREST ADVISORY COMMITTEE (FAC) MINUTES

In the Forest Advisory Committee meeting held on the 29th of July 2015, the committee discussed 16 projects related to mining, exploratory drilling, hydro power, irrigation as well as a road project, a construction project and setting up of a military airfield. The proposals were from the states of Arunachal Pradesh, Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Odisha and Uttarakhand.

Out of these, the FAC recommended approval for 11 projects. The FAC recommended diversion of 121.58 ha of forest land in Chandrapur District of Maharashtra for a coal-mine. The mine is located at a distance of about 12 km from the Tadoba Andhari Tiger Reserve. The only evidence of FRA compliance in this case seems to be a letter from the District Collector of Chandrapur, contents of which are not known as they are not available on the website. It is not clear from the minutes whether or not the gram sabha consent has been sought and received for this diversion.

For diversion of 165.985 ha of forest land in Shadol District of Madhya Pradesh for the Amlai open cast coal mine the FAC recommended approval to the project. Surprisingly this recommendation came despite them observing that the state government had only attached a letter from the District Collector certifying that the complete process of recognition of rights under FRA was complete and no resolutions from concerned gram sabhas had been received. Similarly, diversion of 75 ha of forest land for a wind energy project in Jagalur Forest Division of Davanagere District in Karnataka was recommended by the FAC. This recommendation also comes despite FAC noting that the documents including the proceedings of concerned gram panchayats and gram sabhas submitted by the state government were not in accordance with the documentary evidence asked for under the Aug 2009 circular!

The FAC also recommended approval for 4 exploratory drilling operations in Odisha. These include diversion of 14.624ha for Kalarangi Chromite Mine, 6.5495 ha for Balipada-Mahagiri Chromite Mines and 9.696 ha for Kaliapani Chromite mine in Jajpur District, and 2 ha for Meenakshi B coal block in Sundergarh District of Odisha. In all these cases the FAC referred to the

MoEFCCs guidelines dated 4th July 2014 stating that projects of exploratory drilling and prospecting are exempted from submitting documents related to FRA compliance. However, even in the three projects from Jajpur where roads are being constructed as part of the drilling projects the FAC has not asked for FRA compliance!

The FAC recommended three hydropower projects in the West Siang District of Arunachal Pradesh, which include diversion of 52.80 ha for Tato-I project, 55.70 ha for Heo project and 91.70 ha of Pauk project. It observed that complete FRA compliance report had been submitted by the state government for all three projects. These documentary evidences given in support of FRA compliance are not available online. However, it is important to note that the state government of Arunachal Pradesh has maintained that the FRA does not have much relevance in Arunachal Pradesh since most land in the state is classified as community land. It has not reported on a single claim filed in the state and has not distributed any titles under the FRA<sup>10</sup>. Therefore, the compliance report submitted by the state government needs to be thoroughly examined for discrepancies.

Diversion of 128.92 ha of forest land for a military airfield station in Kutch district of Gujarat has also been recommended by the FAC. According to the minutes the proposal included a certificate from the District Collector stating that all rights under FRA have been recognised, and resolutions of consent from affected gram sabhas. These documents are not available on the website.

The FAC has asked for FRA compliance reports from two projects including for the diversion of 139.473 ha for a minor irrigation scheme in Kholsapada of Thane District and 47.4170 ha for construction of a six lane harbor link road in Raigad and Thane Districts of Maharashtra.

The minutes of the FAC are available here: [http://forestsclearance.nic.in/FAC\\_Report.aspx](http://forestsclearance.nic.in/FAC_Report.aspx).

<sup>10</sup><http://fra.org.in/document/Status%20Report%20August2015.pdf>